

REMARKS

In the outstanding Office Action, claims 1-7 and 120-167 were rejected under 35 U.S.C. § 102(b) as anticipated by at least one of U.S. Patent Nos. 4,346,869 to MacNeill; 4,188,953 to Klieman et al.; 4,424,810 to Jewusiak; 4,449,531 to Cerwin et al.; and 5,766,189 to Matsuno.

By this Response, Applicants have canceled claims 3 and 158-163, amended claims 1, 120, 121, 135, and 148. Accordingly, claims 1, 2, 4-7, 120-157 and 164-167 are pending in this application. No new matter has been added by this Response.

Applicants respectfully traverse the rejections of independent claims 1, 120, 135, and 148 under 35 U.S.C. § 102(b) in view of at least one of MacNeill, Jewusiak, and Cerwin et al. The cited patents to MacNeill, Jewusiak, and Cerwin et al. all fail to disclose or suggest the devices recited in independent claims 1, 120, 135, and 148. For example, MacNeill, Jewusiak, and Cerwin et al. each fail to disclose or suggest, among other things, a device for securing a fold of tissue that includes a first arm and a second arm fixedly connected at respective first ends to define an opening configured to allow tissue to extend from the connection beyond a second end of the first and second arms when tissue is secured, as recited in independent claim 1. Independent claims 120, 135, and 148 include similar recitations. Each of the devices of MacNeill, Jewusiak, and Cerwin et al. is configured to clamp and lock tubular structures between the proximal and distal ends of their respective arms. See, for example, Fig. 4 of MacNeill, Fig. 2 of Jewusiak, and Fig. 3 of Cerwin et al. The locking structures disclosed in MacNeill, Jewusiak, and Cerwin et al. do not permit tissue to extend beyond the distal ends of the disclosed devices. This distinction is clear when comparing Fig. 7 of the present

application to Figs. 4, 2, and 3 of the MacNeill, Jewusiak, and Cerwin et al. patents, respectively. For the above reasons, Applicants submit that the rejection of independent claims 1, 120, 135, and 148 in view of MacNeill, Jewusiak, and/or Cerwin should be withdrawn, along with the rejection of claims 2, 4, 5, 120-132, 134-152, and 155-157 that depend from independent claims 1, 120, 135, and 148.

Applicants also respectfully request reconsideration of the 35 U.S.C. § 102(b) rejection of independent claims 1 and 120 in view of Klieman et al. Klieman et al. discloses a hemostatic clip for strangulation of tubular members, wherein the clip includes arms having inner surfaces that are brought into contact with one another. See the Abstract of Klieman et al. Kleiman et al. does not disclose or suggest, for example, among other things, an anchoring portion as recited in independent claims 1 and 120. This deficiency in Kleiman et al. is supported by the fact that dependent claims 3 and 121 recited an anchoring portion and were not rejected in view of Klieman et al. in the outstanding Office Action. For at least this reason, Applicants request that the rejection of claims 1, 6, 120, and 133 in view of Klieman et al. be withdrawn.

Applicants also respectfully request that the 35 U.S.C. § 102(b) rejection of claims 1, 120, 135, 148, 149, and 158-167 in view of Matsuno be withdrawn. Matsuno discloses a clip device having arms that crisscross one another prior to being fixedly connected at an end of the clip. See Fig. 1B of Matsuno. The crisscrossing of the arms provides the clip with a tendency to open prior to placement of a squeezing ring about the end of the clip to close the clip. See Fig. 1C. Matsuno does not disclose or suggest, for example, among other things, a device for securing a fold of tissue that includes a first arm and a second arm fixedly connected at respective first ends to

define an opening configured to allow tissue to extend from the connection beyond a second end of the first and second arms when tissue is secured, as recited in independent claim 1. Independent claims 120, 135, and 148 include similar recitations. The crisscrossing of the two legs of Matsuno prohibits tissue from extending from the fixed connection of the legs. For at least this reason, Applicants submit that the rejection of claims 1, 120, 135, 148, 149, and 158-167 in view of Matsuno be withdrawn.

Claims 2, 4-7, 121-134, 136-147, 149-157 and 164-167 all depend from one of independent claims 1, 120, 135, and 148, and are therefore allowable for at least the same reasons provided above that independent claims 1, 120, 135, and 148 are allowable. In addition, at least some of the dependent claims recite unique combinations that are neither taught nor suggested by the cited art, and therefore at least some also are separately patentable.

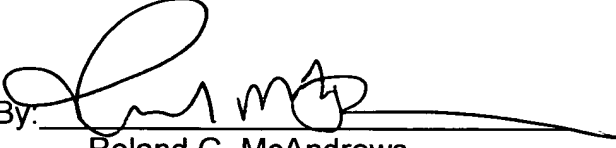
The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

If there is any fee due in connection with the filing of this Response that is not otherwise provided with the filing, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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